

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.11102 of 1996

Dated: 14.2.2007

Between:

The Depot Manager,
APSRTC, Mushirabad, Hyderabad.

... Petitioner

AND

G.Satyanrayana

And another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.11102 of 1996

ORDER:-

This writ petition is filed by the Depot Manager, Andhra Pradesh State Road Transport Corporation (APSRTC), Musheerabad Depot, questioning the award dated 26.8.1995 of the Labour Court-I, Hyderabad in I.D.No.408 of 1993 (Old I.D.No.140 of 1991 of Additional Labour Court, Hyderabad) whereby it has set aside the order dated 26.4.1987 removing respondent No.1 from service. The Labour Court while directing reinstatement awarded monetary benefits to respondent No.1 from 26.7.1990 till 17.1.1991 and also one half of the monetary benefits during the period from 22.7.1991 till the "date stipulated for reinstatement" with continuity of service without any break.

Heard counsel for the petitioner – Corporation and perused the record. The first respondent was appointed in APSRTC as Cleaner on 22.4.1971 and later he was appointed as Driver on 26.2.1978. A charge sheet was issued to the petitioner for his alleged unauthorized absence. The solitary charge framed against the petitioner reads as under:

“ 1) For having un-authorizedly absented for duty with effect from 1.2.1987 without any kind of intimation, which

constitutes misconduct under regulation 28(xxvii) of A.P.S.R.T.C.Employees (Conduct) Regulation 1963.”

After holding enquiry the first respondent was removed from service by order dated 24.6.1987 passed by the petitioner. The appeal filed by the first respondent was dismissed by the Divisional Manager (Charminar Division) through its order dated 17.1.1991. Feeling aggrieved by the said two orders the first respondent has raised industrial dispute under Section 2A(2) of the Industrial Disputes Act 1947.

The Labour Court, as mentioned above, set aside the said orders and directed the reinstatement of the first respondent subject to certain conditions stipulated in the award. The Labour Court after considering the entire material on record framed four issues and discussed the case in detail. As regards the unauthorized absence, the first respondent has not joined issue on the finding of unauthorized absence. Therefore, the Labour Court refrained from going into the said aspect and it has concentrated on the reasonableness of the quantum of punishment imposed on the first respondent. After considering the gravamen of the charge, namely; unauthorized absence of the first respondent for a period of one month and 21 days, Labour Court took the view that the quantum of punishment i.e., removal from service is too disproportionate to the gravity of the charge and hence, the penalty is unreasonable and arbitrary. Nothing has been brought out in the writ petition to demonstrate that the findings given by the Labour Court suffer from any error apparent on the face of the record or that they are perverse. Even taking the charge on its face value, the accusation against respondent No.1 is that he was absent for one month and 21 days without taking permission or applying for leave. In my considered view the Labour Court is therefore justified in interfering with the penalty of removal from service by converting the

penalty of removal into one of stopping of increment for one year with cumulative effect for two years. As held in a catena of judgments by the Supreme Court in **Om Kumar vs Union of India**^[1], **Union of India and Another vs G.Ganayutham**^[2], **Divisional Controller, K.S.R.T.C. (N.W.K.R.T.C.) vs A.T.Mane**^[3], **V.Ramana vs APSRTC**^[4] and **Ram Saran vs I.G.of Police, CRPF AND ANOTHER**^[5], the courts are empowered to modify the penalties if in their opinion the penalties are disproportionate to the gravity of the misconduct. On the facts and circumstances of the case, the Labour Court exercised its power vested in Section 11-A of the Industrial Disputes Act 1947 and rightly modified the penalty imposed on the petitioner. I, therefore, do not see any justification to interfere with the order of the Labour Court.

The writ petition therefore, fails and is dismissed with costs.

C.V.NAGARJUNA REDDY,J

Date:14.02.2007
mdaa

^[1] (1995) 6 SCC 749

^[2] (1997) 7 SCC 463

^[3] (2005) 3 SCC 254

^[4] (2005) 7 SCC 338

^[5] (2006) 2 SCC 541